

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUN 19 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

IFZAL AHMED,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-73567

Agency No. A72-664-405

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted June 15, 2006^{**}
San Francisco, California

Before: RYMER and T.G. NELSON, Circuit Judges, and KING,^{***} Senior
Judge.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

^{***} The Honorable Samuel P. King, Senior United States District Judge for the District of Hawaii, sitting by designation.

Ifzal Ahmed petitions for review of the Board of Immigration Appeals' affirmance of the Immigration Judge's (IJ) denials of his motion for a continuance and his claims for asylum, withholding of removal, Convention Against Torture relief, and voluntary departure. We have jurisdiction pursuant to 8 U.S.C. § 1252(a)(1), and we deny the petition.

Regarding the continuance, Ahmed failed to show good cause for his attorney's lack of preparation for his merits hearing.¹ Ahmed and his first two attorneys had many years to prepare his asylum case and had notice that proceedings on the asylum claim would resume if the INS revoked Ahmed's visa.² Moreover, it was Ahmed's fault that his new attorney was not prepared. He hired her just before the hearing and did not inform her that the INS had revoked his

¹ See *Avila-Murrieta v. INS*, 762 F.2d 733, 736 (9th Cir. 1985) (reviewing for an abuse of discretion an immigration judge's decision to deny a motion for a continuance).

² *Id.*

visa.³ Coupled with the many continuances the IJ already had granted Ahmed, she certainly did not abuse her discretion by denying Ahmed's latest request.⁴

As to Ahmed's claims for asylum and withholding of removal,⁵ substantial evidence supported the IJ's adverse credibility finding.⁶ Among other discrepancies the IJ cited, Ahmed's testimony regarding the stoning of his home was both internally inconsistent and inconsistent with his asylum application. Because Ahmed was unable to explain the discrepancies in his testimony, the IJ had a legitimate basis for discrediting it.⁷ Accordingly, we affirm the IJ's denial of asylum and withholding of removal.⁸

³ *Id.* Even if Ahmed was not aware that the INS had revoked his visa, he knew well before the hearing that the INS intended to revoke it. Moreover, Ahmed's marriage ended approximately one year before the hearing. That should have alerted him that he no longer had status through his U.S. citizen wife.

⁴ *See Biwot v. Gonzales*, 403 F.3d 1094, 1099 (9th Cir. 2005).

⁵ We do not agree with the Government that the IJ based her denial on a ground other than Ahmed's lack of credibility. Ahmed appealed that finding to the Board of Immigration Appeals and thus, we have jurisdiction to review it. *See* 8 U.S.C. § 1252(a)(1), (d)(1).

⁶ *Shah v. INS*, 220 F.3d 1062, 1067 (9th Cir. 2000) (reciting the standard applicable to adverse credibility findings).

⁷ *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

⁸ *Id.*

Regarding Ahmed's claims for Convention Against Torture and voluntary departure, he did not exhaust his administrative remedies by raising the claims before the Board of Immigration Appeals. Thus, we lack jurisdiction to review them.⁹

PETITION DENIED.

⁹ See 8 U.S.C. § 1252(d)(1); *Farhoud v. INS*, 122 F.3d 794, 796 (9th Cir. 1997).